

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.622(j),)	MB Docket No. 21-124
Table of Allotments,)	RM-11891
Television Broadcast Stations)	
(Henderson, Nevada))	

REPORT AND ORDER

(Proceeding Terminated)

Adopted: January 12, 2022

Released: January 12, 2022

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking¹ issued in response to a Petition for Rulemaking filed on July 9, 2021 by KVVU-TV Broadcasting Corporation (Petitioner),² the licensee of KVVU-TV, channel 9, Henderson, Nevada. The Petitioner has requested the substitution of UHF channel 24 for VHF channel 9 in the DTV Table of Allotments.³

2. The Petitioner filed comments in support of the petition, as required by the Commission's rules,⁴ reaffirming its commitment to apply for channel 24. Gray Television, Inc., which acquired the broadcast television portfolio of the Petitioner's parent, Meredith Corporation, also filed comments in support of the petition and committing to apply for channel 24. No commenter opposed the petition.

3. We believe the public interest would be served by substituting channel 24 for channel 9 at Henderson, Nevada. In support of its channel substitution request, the Petitioner states that the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, and that KVVU-TV has received numerous complaints of poor or no reception from viewers within its noise limited contour.⁵ The Petitioner further explains the importance of a strong over-the-air signal in the Las Vegas area during emergencies, and that improving the reliability of KVVU-TV serves the public interest in the Las Vegas area, where over 25 percent of

¹ *Amendment of Section 73.73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Henderson, Nevada)*, MB Docket No. 21-124, Notice of Proposed Rulemaking, DA 21-921 (rel. July 28, 2021) (*NPRM*).

² Gray Television Licensee, LLC acquired the license from the Petitioner on December 1, 2021. LMS File Nos. 0000145518 and 0000176301.

³ As noted in the *NPRM* at n. 2, on April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act, and the post-incentive auction transition period ended on July 13, 2020. At the time the *NPRM* was issued, the Commission had not yet amended its rules to reflect all new full power channel assignments in a revised Table of Allotments. Accordingly, the *NPRM* referred to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018). The Commission has now adopted the new Table of Allotments, 47 CFR § 73.622(j), and this *Report and Order* amends the new rule. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction*, GN Docket No. 12-268, Order, FCC 21-111 (rel. Oct. 25, 2021).

⁴ 47 CFR §§ 1.415, 1.419; see also *Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

⁵ *NPRM* at 2-3.

viewers receive television broadcast signals over-the-air.⁶ Finally, while the channel 24 noise limited contour will not fully encompass the existing channel 9 contour, only 152 persons would lose service from KVVU-TV, and no viewers would lose access to their first or second over-the-air television service.⁷ While 152 persons are predicted to lose service from KVVU-TV, the Commission considers such a loss to be *de minimis*.⁸

4. As proposed, channel 24 can be substituted for channel 9 at Henderson, Nevada, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules (rules),⁹ at coordinates 36-0-25.8 N and 115-0-24.9 W. In addition, we find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the rules with the following specifications:¹⁰

<u>City and State</u>	<u>DTV Channel</u>	<u>DTV Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop.</u>
Henderson, Nevada	24	1000	383	1,980,996

5. We also conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to section 553(d)(3) of the Administrative Procedure Act.¹¹ An expedited effective date is necessary in this case to ensure that KVVU-TV can operate with improved service to its viewers as quickly as possible.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), (r) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b) and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED**, That effective immediately upon the date of publication in the Federal Register, the Table of Allotments, section 73.622(j) of the Commission's rules, 47 CFR § 73.622(j), **IS AMENDED**, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Henderson, Nevada	24

7. **IT IS FURTHER ORDERED**, That within 30 days of the effective date of this Order, Gray Television Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 24 in lieu of channel 9.

8. **IT IS FURTHER ORDERED**, That pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

9. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 21-124 and RM-11891 **SHALL BE TERMINATED** and its docket closed.

⁶ *Id.* at 3.

⁷ *Id.*

⁸ See *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that population loss of less than 500 persons is *de minimis*).

⁹ 47 CFR § 73.625(a).

¹⁰ 47 CFR §§ 73.616, 73.623.

¹¹ 5 U.S.C. § 553(d)(3).

10. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau